NOTIFICATION.

(LAW DEPARTMENT).

No LAW 85 LCA 62, dated Bangalore, 10th October 1962.

Ordered that the State of Nagaland Act, 1962 (27 of 1962), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 1, dated the 4th September 1962, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

S. SRIPADARAJ
Under Secretary to Government;
20 *Law Department.*

Assented to on 4th September 1962 Act No 27th of 1962

THE STATE OF NAGALAND ACT 1962 (27 OF 1962).

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THE STATE OF NAGALAND ACT, 1962 (27 OF 1962).

AN

ACT

to provide for the formation of the State of Nagaland and for matters connected therewith.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows :—

PART I

PRELIMINARY

1 Short title.—This Act may be called the State of Nagaland Act, 1962.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint ;

(*b*) "article" means an article of the Constitution ;

(*c*) "assembly constituency" and "parliamentary constituency" have the same meanings as in the Reprsentation of the People Act, 1950 (43 of 1950) ;

(*d*) "law' includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument or custom or usage having the force of law,

(*e*) "Naga Hills-Tuensang Area" means the Naga Hills-Tuensang Area specified in Part B of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution, comprising the areas which at the commencement of the Constitution were known as the Naga-Hills District and the Naga Tribal Area,

(*f*) "regional council" means the regional council referred to in article 371 A

PART II

Formation of the State of Nagaland

3. Fromation of State of Nagaland.—(1) As from the appointed day, there shall be formed a new State to be known as the State of Nagaland comprising the territories which immediately before that day were comprised in the Naga Hills-Tuensang Area and thereupon the said territories shall cease to form part of the State of Assam.

(2) Without prejudice to the power of the State Government to alter after the appointed day, the name, extent or boundaries of any district, the State of Nagaland shall consist of three districts to be called the Kohima district, Mokokchung district and Tuensang district, each comprising the areas respectively set out in the Schedule.

4 Amendment of First Schedule to the Constitution —As from the appointed day, in the First Schedule to the Constitution, under the heading "I THE STATES"—

(*a*) in the paragraph relating to the territories of the State of Assam, the following shall be added at the end, namely:—

"and the territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962",

(*b*) after entry 15, the following entry shall be inserted, namely —

"16. Nagaland. .The territories specified in sub-section (1) of section 3 of the State of Nagaland Act, 1962."

5 Amendment of Sixth Schedule to the Constitution —As from the appointed day, in the Sixth Schedule to the Constitution—

(*a*) in paragraph 20—

(*i*) sub-paragraph (2B) shall be omitted,

(*ii*) in sub-paragraph (3), the brackets and words "(other than the Naga Hills-Tuensang Area)" shall be omitted,

(*b*) in the Table appended to paragraph 20, in Part B, the item "2. The Naga Hills-Tuensang Area" shall be omitted.

PART III

Representation in the Legislatures

The Council of States

6 Representation in Council of States.—As from the appointed day—

(*a*) there shall be allotted one seat to the State of Nagaland in the Council of States,

(*b*) in the Fourth Schedule to the Constitution, in the Table—

(*i*) entries 16 to 19 shall be renumbered as entries 17 to 20,

(*ii*) after entry 15, the following entry shall be inserted, namely —

"16 Nagaland .. .. .1",

(*iii*) at the end, for the figures "224", the figures "225" shall be substituted.

7. Election to fill vacancy —As soon as may be after the appointed day, there shall be held an election to fill the seat allotted to the State of Nagaland in the Council of States.

8. Term of office —The term of office of the member for the first time elected to fill the seat allotted to the State of Nagaland in the Council of States shall expire on the 2nd day of April, 1968

The House of the People

9. Representation in House of the People — (1) As from the appointed day—

(*a*) there shall be allotted one seat to the State of Nagaland in the House of the People,

(*b*) in the First Schedule to the Representation of the People Act, 1950 (43 of 1950),—

(*i*) the entry "25. Naga Hills-Tuensang Area .. 1" shall be omitted,

(*ii*) entries 16 to 24 shall be renumbered as entries 17 to 25,

(*iii*) after entry 15, the following entry shall be inserted, namely —

"16 Nagaland ..... 1".

(*2*) The whole of the State of Nagaland shall form one parliamentary constituency to be called the parliamentary constituency of Nagaland for the purpose of filling the seat allotted to that State in the House of the People.

(*3*) For the period referred to in clause (*2*) of article 371A, section 13D of the Representation of the People Act, 1950 (43 of 1950), shall apply in relation to the parliamentary constituency of Nagaland with the modification that it shall be necessary to prepare and revise separately the electoral roll for that part of the said parliamentary constituency which comprises the Tuensang district and the provisions of Part III of that Act shall apply in relation to the said part as they apply in relation to an assembly constituency.

10 Provision as to sitting member—The sitting member of the House of the People representing, immediately before the appointed day, the Naga Hills-Tuensang Area shall, as from that day, represent the State of Nagaland in that House and shall continue to do so until a person is elected in accordance with law to fill the seat allotted to the parliamentary constituency of Nagaland.

The Legislative Assembly

11. Strength of Legislative Assembly — (*1*) The total number of seats to be filled by persons chosen by direct election in the Legislative Assembly of Nagaland shall be 60

Provided that for the period referred to in clause (2) of article 371A, the total number of seats in the Legislative Assembly of Nagaland shall be 46, of which—

(*a*) six seats shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council from amongst themselves in such manner as the Governor, after consulting that council, may by notification in the Official Gazette specify, and

(*b*) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State of Nagaland.

(*2*) In the Representation of the People Act, 1950 (43 of 1950),—

(*a*) in section 7, the following proviso shall be inserted at the end, namely —

"Provided that for the period referred to in clause (*2*) of article 371A, the total number of seats allotted to the Legislative Assembly of Nagaland shall be 46, of which—

(*a*) six seats shall be allocated to the Tuensang district and shall be filled by persons chosen by the members of the regional council referred to in that article from amongst themselves in such manner as the Governor, after consulting that council, may by notification in the Official Gazette specify, and

(*b*) the remaining forty seats shall be filled by persons chosen by direct election from assembly constituencies in the rest of the State of Nagaland ",

(*b*) in the Second Schedule, after entry 14, the following entry shall be inserted, namely —

"15 Nagaland . .. 60 [for the period referred to in clause (*2*) of article 371A, 46].".

(*3*) In the Representation of the People Act, 1951 (43 of 1951), in section 5, in clause (*c*), the following proviso shall be inserted at the end, namely —

"Provided that for the period referred to in clause (2) of article 371A, a person shall not be qualified to be chosen to fill any seat allocated to the Tuensang district in the Legislative Assembly of Nagaland unless he is a member of the regional council referred to in that article "

(*4*) The Election Commission shall delimit the assembly constituencies in accordance with the provisions of the Constitution on the basis of the latest census figures, and in doing so the Commission shall have regard to the following provisions, namely —

(*a*) all constituencies shall, as far as practicable, consist of geographically compact areas, and in delimiting them, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication, public convenience and linguistic affinities of the people,

(*b*) all constituencies shall be single-member constituencies, and

(*c*) the population of each constituency shall not, as far as practicable, be more than six thousand

(5) For the purpose of assisting the Election Commission in the performance of its functions under this section, the Commission shall associate with itself five persons of whom three shall be elected by the members of the Interim Body established under section 3 of the Nagaland (Transitional Provisions) Regulation, 1961 (Regulation 2 of 1961), from

among themselves and two shall be nominated by the Central Government.

Provided that none of the said associate members shall have a right to vote or to sign any decision of the Election Commission.

(*6*) The Election Commission shall—

(*a*) formulate its proposals in regard to the matters mentioned in sub-section (*4*) and publish them in the Official Gazette of the State of Assam and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it,

(*b*) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration hold one or more public sittings at such place or places as it may think fit,

(*c*) after considering all objections and suggestions which may have been recieved by it before the date so specified, determine the matters mentioned in sub-section (*4*) by one or more final orders and cause such order or orders to be published in the Official Gazette of the State of Assam, and upon such publication the order or orders shall have the full force of law and shall not be called in question in any court,

(*d*) amend the Delimitation of Parliamentary and Assembly Constituencies Order, 1961, so as to include therein the parliamentary constituency of Nagaland and the assembly constituencies delimited under this section.

12. Rules of Procedure —The rules as to procedure and conduct of business in force immediately before the appointed day with respect to the Legislative Assembly of Assam shall, until rules are made under clause (1) of article 208.

have effect in relation to the Legislative Assembly of Nagaland, subject to such modifications and adaptations as may be made therein by the Speaker thereof

PART IV

High Court

13. Common High Court for Assam and Nagaland —(1) As from the appointed day,—

(*a*) there shall be a common High Court for the State of Assam and the State of Nagaland to be called the High Court of Assam and Nagaland (hereinafter referred to as the common High Court),

(*b*) the Judges of the High Court of Assam holding office immediately before that day shall, unless they have elected otherwise, become on that day the Judges of the common High Court

(2) Expenditure in respect of the salaries and allowances of the Judges of the common High Court shall be allocated between the State of Assam and the State of Nagaland in such proportion as the President may by order determine

14. Provision as to Advocates.—(1) As from the appointed day,—

(*a*) in the Advocates Act, 1961 (25 of 1961), in section 3, in sub section (1), for clause (*b*), the following clause shall be substituted, namely —

"(*b*) for the States of Assam and Nagaland and the Union territory of Manipur, to be known as the Bar Council of Assam and Nagaland,",

(*b*) the Bar Council of Assam shall be deemed to be the Bar Council of Assam and Nagaland.

(2) Any person who immediately before the appointed day is an advocate entitled to practise in the High Court of Assam shall be entitled to practise as an advocate in the common High Court

(3) All persons who immediately before the appointed day are advocates on the roll of the Bar Council of Assam shall as from that day become advocates on the roll of the Bar Council of Assam and Nagaland.

(4) The right of audience in the common High Court shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court of Assam

Provided that as between the Advocate-General of Assam and the Advocate-General of Nagaland the right of audience shall be determined with reference to their respective dates of enrolment as advocates

15 Practice and procedure in common High Court — Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court of Assam shall, with necessary modifications, apply in relation to the common High Court.

16 Custody of Seal of common High Court —The law in force immediately before the appointed day with respect to the custody of the Seal of the High Court of Assam shall, with necessary modifications apply with respect to the custody of the Seal of the Common High Court.

17. Form of writs and other processes —The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Assam shall, with necessary modifications apply with respect to the form of writs and other processes used, issued or awarded by the common High Court.

18. Powers of Judges —The law in force immediately before the appointed day with respect to the powers of the Chief Justice, single Judges and division courts of the High Court of Assam and with respect to all matters ancillary to the exercise of those powers shall, with necessary modifications, apply in relation to the common High Court.

19. Principal seat of common High Court —The principal seat of the common High Court shall, unless otherwise determined by the Chief Justice after consultation with the Governors of Assam and Nagaland, be at the same place as the principal seat of the High Court of Assam immediately before the appointed day

20. Procedure as to appeals to Supreme Court —The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Assam and the Judges and division courts thereof shall, with necessary modifications, apply in relation to the common High Court

21. Pending suits, appeals and proceedings —All suits, appeals and proceedings, civil, criminal or otherwise, pending in the High Court of Assam immediately before the appointed day shall, on that day, stand removed to the common High Court and the common High Court shall have jurisdiction to hear and determine the same, and the judgments, decrees, sentences and orders of the High Court of Assam delivered, passed or made before the appointed day shall have the same force and effect as if they had been delivered, passed or made by the common High Court.

PART V

FINANCIAL PROVISIONS

22 Authorisation of expenditure pending its sanction by Legislature.—The President may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Nagaland as he deems necessary for a period of not more than six months beginning with the appointed day, pending the sanction of such expenditure by the Legislature of the State of Nagaland

Provided that the Governor of Nagaland may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Nagaland for any period not extending beyond the said period of six months.

23 Distribution of revenues —The President shall by order determine the grants-in-aid of the revenues of the State of Nagaland and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Union Duties of Excise (Distribution) Act, 1962 (3 of 1962), the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), the Estate Duty (Distribution) Act, 1962 (9 of 1962), and the Constitution (Distribution of Revenues) Order, 1962 (C O 63), in such manner as he thinks fit

24 Property, assets, rights, liabilities and obligations — (1) All property and assets situated in, or used for, or in connection with the administration of, the Naga Hills-Tuensang Area and vested in the Union immediately before the appointed day (other than any property or assets so vested for purposes of the Union) shall, as from that day, vest in the State of Nagaland

Provided that the cash balances in the treasuries in the Naga Hills-Tuensang Area immediately before the appointed day shall, as from that day, vest in the State of Nagaland.

(2) All rights, liabilities and obligations of the Central Government, whether arising out of any contract or otherwise, which are, immediately before the appointed day, the rights, liabilities and obligations of the Central Government arising out of or in connection with the administration of the Naga Hills-Tuensang Area shall, as from that day, be the rights, liabilities and obligations of the Government of the State of Nagaland

25 Arrears of taxes —The right to recover arrears of any tax or duty (being a tax or duty enumerated in the State List in the Seventh Schedule to the Constitution) which have fallen due in the Naga Hills-Tuensang Area shall pass to the State of Nagaland

PART VI

Legal and Miscellaneous Provisions

26. Continuance of existing laws and their adaptation — (1) All laws in force, immediately before the appointed day, in the Naga Hills-Tuensang Area shall continue to be in force in the State of Nagaland until altered, repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of facilitating the application in relation to the State of Nagaland of any law made before the appointed day, the appropriate Government may, within two years from that day, by order make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this Section, the expression "appropriate Government" means, as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government, and as respects any other law, the Government of Nagaland.

27 Power to construct laws —Notwithstanding that no provision or insufficient provision has been made under section 26 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Nagaland construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be

28 Provisions as to continuance of courts and of officers etc —(1) All courts and tribunals and all authorities discharging lawful functions throughout the Naga Hills-Tuensang Area or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent Legislature or other competent authority continue to exercise their respective functions

(2) Every person who, immediately before the appointed day, is holding or discharging the duties of any post or office in connection with the administration of the Naga Hills-Tuensang Area or any part thereof shall, except where by virtue or in consequence of the provisions of this Act such post or office ceases to exist on the day, continue to hold the same post or office in the State of Nagaland, and shall be deemed, as from that day, to have been duly appointed to such post or office by the Government of, or other appropriate authority in such State.

(3) Nothing in sub-section (2) shall be deemed to prevent a competent authority, after the appointed day, from passing in relation to any such person any order affecting his continuance in such post or office

29. Amendment of Act 37 of 1956 — As from the appointed day, in Section 15 of the States Re-organisation Act, 1956, in clause (c), for the words, " and Assam ", the words " Assam and Nagaland " shall be substituted.

30. Effect of Provisions of Act inconsistent with other laws.—The provisions of this Act shall have affect notwithstanding anything inconsistent therewith contained in any other law.

31 Power to remove difficulties —(1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

(2) Every order made under this section shall be laid before each House of Parliament.

32. Power to make rules —(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

33 Repeal As from the appointed day, the Nagaland (Transitional Provisions) Regulation, 1961 (Regulation 2 of 1961) shall stand repealed

THE SCHEDULE

[*See* section 3 (2)]

District	*Areas*
1. Kohima	The areas which immediately before the 1st day of December, 1957, were comprised in the Naga Hills District excluding the areas in Mokokchung district as specified in item No. 2.
2. Mokokchung ...	The areas which immediatly before the 1st day of December, 1957, were comprised in the Mokokchung Sub-division of the Naga Hills District.
3. Tuensang	The areas which immediately before the 1st day of December, 1957, were comprised in the Tuensang Frontier Division of the North East Frontier Agency

R. C S. SARKAR,
Secretary to the Government of India.

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